

### REMARKS

In the Office Action, dated September 23, 2003, the Examiner rejected claims 21 through 40, as being anticipated by Myers and Hoare, and obvious by Myers in view of Hoare and obvious by Hoare in view of Myers. Claims 21 through 40, were the claims currently pending in the application. Claims 21, 22, 24, 31, 32, 34 and 35 stand rejected based on anticipation by the Myers patent. Claims 21 through 24, 26, 27 and 31 through 34 stand rejected as being anticipated by British Patent No. 2,206,024 to Hoare. Claims 23, 27 through 30, 33, and 36 through 40 stand rejected over Myers in view of Hoare and Claims 25, 29 through 30, and 35 through 40 stand rejected over Hoare in view of Myers. By the amendment herein above, newly presented claims 41 and 51 show the feature that each anchor is attached to the protective tarp in a predetermined position on the protective tarp. The Applicant respectfully submits that no new matter has been added. The specification discloses attached tank compartment anchors 65, 67, 69 and 72 located symmetrically around the edge 61 [of the sheet material]. (page 10, lines 4 through 6). The figures show the tank compartment anchors being pre-determinedly positioned on the protective tarp. For example, Fig. 5 specifically shows a continuous tarp with pre-determined position of the compartment anchors on the tarp. Thus, the Applicant respectfully submits that there is no new matter.

In addition, the Applicant responds as follows:

(A.) Myers Rejection

Claims 21, 22, 24, 31, 32, 34 and 35 stand rejected based on anticipation by the Myers patent. Mr. Ramirez stated that Myers shows a flexible cover to protect items from weather elements comprising a sheet and anchors 20 to be filled with water to anchor the cover. He continued stated that the anchors are separate and apart from each other and that the sheet is defined by four edges wherein edges opposite each other include a plurality of anchors.

In response, the Applicant respectfully submits that the Myers disclosure does not present a prima facie case of anticipation. More specifically, with regard to claims 21 and 31, the feature of compartment anchors being separate and apart from each other does not present a prima facie case of anticipation for the following reasons. First, the Myers disclosure is different from the present invention. Second, if the spaced bladders of Myers were not interconnected, a function of filling all bladders simultaneously or filling a series of bladders simultaneously would be eliminated. Third, the present invention has opposite purposes and results from the Myers invention. And fourth, there is no motivation to eliminate the interconnections among bladders in the Myers disclosure.

First, the Myers disclosure is different from the present invention. Myers discloses a protected cover that utilizes spaced bladders that are filled and drained through inlet conduits. Myers' bladders are connected to next adjacent bladders with a flexible conduit 34 so that liquid flows down hill from one bladder to the next. This enables the liquid to essentially seek its own level by shifting to bladders located lower

than others and enables all the bladders to be filled with a single connection. Although each bladder may be filled individually, the liquid flows down hill into successive bladders when one bladder is filled. The Applicant respectfully disagrees with the Examiner determination that Myers' bladders are separated and apart from each other, since the flexible conduits allow for connection of one bladder to next adjacent bladders. Webster's Ninth New Collegiate Dictionary defines separate as "set or keep apart, detached". By the definition, Myers bladders would not be separated or apart from each other because each bladder is attached to adjacent bladders through the inlet conduits.

In contrast to this, the present invention anchors are separate and apart from each other, as specifically recited in claims 21 and 31. Each anchor is detached from any other anchor and may be separately filled with liquid. Thus, the Applicant respectfully submits that the Myers disclosure is different from the present invention.

Second, if the spaced bladders of Myers were not interconnected, a function of filling all bladders simultaneously or filling a series of bladders simultaneously would be eliminated. The Myers patent states that an object of the invention "is to provide a cover, . . . . in which the plurality of bladders are connected for fluid flow such that multiple bladders may be filled from a single water source." col. 2, lines 6 -9. If the elimination of the conduits were effected, the explicit object of the Myers invention providing for simultaneous filling of all bladders would be eliminated.

Third, the present invention has opposite purposes and results from the Myers invention. The difficulty with the Myers device is that water will flow down hill and ballast may be removed by gravity from higher areas where ballast may be desired.

Additionally, the preferred embodiments of Myers seem to have a low level or down hill inlets that would require liquid ballast to be forced up hill. Finally, with the Myers device, selective ballast removal from individual bladders to achieve irregular anchoring (e.g. over an odd shaped object) would not be possible.

On the other hand, the present invention is not only different from the Myers teachings, but is also directed to opposite purpose and results. In the present invention, the devices have separate individual anchor compartments. These are not interconnected and, as stated on page 9 and 10 of the original specification, separate small tank compartment anchors are preferred in the present invention for a number of reasons. Among these reasons are:

- (1) The ability to empty one or more compartments to satisfy anchoring requirements for specific applications;
- (2) The need to prevent massive fluid weight shifts when the tarp is being moved;
- (3) The ability to flatten out, fold, or shorten the functional length of the tarp; and,
- (4) Containment and minimization.

Thus, the present invention has opposite purposes from the Myers disclosure.

And fourth, there is no motivation to eliminate the interconnections among bladders in the Myers disclosure. In determining motivation, Myers must show a suggestion, a teaching, or a need to make the bladders separate and apart from each other. No such motivation can be found. The Myers patent discloses a specific feature of being able to fill all bladders from a single water source. The Myers patent states that “it is desirable to have a cover ..... easily increased in weight such that the position on the

mound is maintained” col. 1, lines 23 -25. The feature of simultaneously filling all bladders satisfies that purpose of the invention of being easily increased in weight. To have to fill each bladder individually would take a significant amount of time. Thus, the Applicant respectfully submits that there is no motivation to make the bladders separate and apart from each other.

For all of the above reasons, it is urged that rejection based on 35 U.S.C. §103(a) is no longer appropriate and should be withdrawn.

(B.) Hoare Rejection

Claims 21 through 24, 26, 27 and 31 through 34 stand rejected based on anticipation by the Hoare patent. The Examiner stated that Hoare shows a flexible cover comprising anchors separated and apart from each other filled with water to anchor the cover. He continued that the sheet and anchors are made of the same material (plastic) and that the sheet defines a central area where anchors are found.

In response, the Applicant respectfully submits that the Hoare disclosure does not present a prima facie case of anticipation. First, the Hoare disclosure is different from the present invention. And second, there is no motivation to attach the anchors of Hoare to the tarp.

First, the Hoare disclosure is different from the present invention. Newly presented claims 41 and 51 define a plurality of tank compartment anchors attached to the protective tarp wherein each anchor has a predetermined position on the protective tarp. On the other hand, the Hoare patent describes and illustrates the anchors as being

water-filled tubes that are laid around and across the tarp. Thus, the anchors of Hoare are detached from the tarp which is different from the attached anchors, predeterminedly positioned on the tarp of the present invention. Therefore, the Applicant respectfully submits that the Hoare disclosure is different from the present invention and should be removed as a reference.

And second, there is no motivation to permanently attach the anchors of Hoare to the tarp. In determining motivation, Hoare must show a suggestion, a teaching, or a need to make the anchors attached to the tarp in a predetermined position. No such motivation can be found. The Hoare patent provides for the flexibility of placing the anchors around and across the tarp, in any desired and random location. If the anchors were attached, the disclosure of being able to place the anchors anywhere would be taught away from. Thus, the Applicant respectfully submits that there is no motivation to permanently attach the anchors of Hoare to the tarp.

(C.) Myers In View Of Hoare Rejection

Claims 23, 27 through 30, 33 and 36 through 40 stand rejected based on obviousness by Myers in view of Hoare. The Examiner stated that the Hoare patent shows a flexible cover comprising anchors filled with water to anchor the cover. Examiner Ramirez continued that both the sheet and the anchors are made of the same material, and it defines a central area where anchors are found. He concluded that it would have been obvious to one skilled in the art at the time the invention was made to have the sheet and anchors shown by Myers of the same material as shown by Hoare as a

matter of expediency which facilitates the manufacturing of the cover. He further concluded that it would have obvious to one skilled in the art at the time the invention was made to have provided the device shown by Myers with anchors on the cover central portion as shown by Hoare to have additional anchors and consequently provide for better protection.

In response, all of the arguments set forth under section (A.) with regard to Myers above are repeated and incorporated herein. Second, the limitations set forth in claims 27 through 30 and 36 through 40 are not taught or in any way suggested by the Myers patent. Third, the specific choices of anchor locations in the present invention claims have a specific purpose. Fourth, if Myers invention was modified to have central anchors, a function of Myers would be eliminated. And finally, there is no motivation to combine the art of Myers with the art of Hoare.

Second, the limitations set forth in claims 27 through 30 and 36 through 40 are not taught or in any way suggested by the Myers patent. The Myers patent specifically calls for three types of bladders, which vary in length, i.e., a front bladder 22, a rear bladder 24 and intermediate bladders 20. The positioning and length of the bladders determine how the weight of the bladders when filled with water is concentrated around the base of a mound col.2, lines 64-67. The front bladder and the rear bladder are positioned on the front and the rear of the cover, respectively. The intermediate bladders include ends adjacent to the longitudinal edge of the canvas and are positioned perpendicular to a respective edge of the canvas. Thus, Myers specifically teaches that the purpose in why the bladders are arranged as such in the disclosure is to distribute the

weight around the base of the mound. If there were a plurality of central tank bladders located at a central area, the weight would not be distributed as functionally described. Therefore, Myers teaches away from having a plurality of central tank component anchors located at a central area.

Third, the specific choices of anchor locations in the present invention claims have a specific purpose. Myers does not teach or suggest other arrangements, as well, that would enable the use of rolls or cutting of large tarps into smaller units. While the Examiner correctly points out that location of anchors is an obvious matter of choice, the specific choices of anchor locations in the present invention claims are not arbitrary. For example, the central tank compartment arrangement of claims 26 and 35 have a specific purpose being making multiple tarps from a single roll.

Fourth, if Myers invention was modified to have central anchors, a function of Myers would be eliminated. With regard to the placement of the anchors, if Myers was modified to have central anchors, the interconnections between anchors would not exist in the central anchors, as taught by Hoare. Thus, a function of filling all anchors from one inlet of Myers would be eliminated.

And finally, there is no motivation to combine the art of Myers with the art of Hoare. In determining motivation, Myers must show a suggestion, a teaching, or a need to make the anchors and the tarp out of the same material or to position the anchors in a central portion of the tarp. No such motivation can be found.. Myers specifically discloses the tarp being made of canvas, while the anchors are bladders capable of



holding liquid. Thus, the tarp and the anchors are specifically defined by Myers and the necessary motivation is not present.

For all of the above reasons, it is urged that rejection based on 35 U.S.C. 103(a) is no longer appropriate and should be withdrawn.

(D.) Hoare In View Of Myers Rejection

Claims 25, 28 through 30, and 35 through 40 stand rejected based on obviousness by Hoare in view of Myers. Examiner Ramirez stated that the patent to Myers shows the use of a plurality of anchors. He stated that it would have been obvious to one skilled in the art at the time the invention was made to have provided the device shown by Hoare with a plurality of anchors as shown by Myers, in order to permit replacement of a single smaller anchor in case of rupture instead of a larger one.

In response, all of the arguments set forth under section (B.) with regard to Hoare above are repeated and incorporated herein. And secondly, the art of Hoare is different from the art of Myers. The art of Hoare is directed to having flexibility in placement of the anchors. Myers is directed to anchors that are pre-located on the tarp. The Applicant respectfully submits that one of ordinary skill in the art at the time the invention was made would not turn to the art of predetermined placement of anchors, as shown in Myers for information on how to place anchors.

For all of the above reasons, it is urged that rejection based on 35 U.S.C. 103(a) is no longer appropriate and should be withdrawn.

CONCLUSION

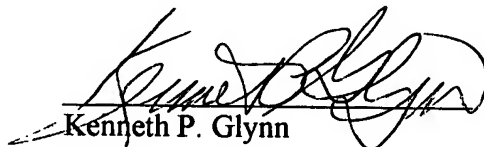
In view of the above amendments to the claims, and further in view of the above remarks, all of the claims are believed to be allowable and an early and favorable response is earnestly solicited.

Thank you.

Respectfully submitted,

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